

AO 241 (Rev. 09/17)

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District: <u>Maine</u>	
Name (under which you were convicted): <u>Kevin J. Robinson</u>		Docket or Case No.: <u>2024 SEP 25 12:32 PM</u>	
Place of Confinement: <u>Maine state Prison</u>		Prisoner No.: <u>161160</u>	
Petitioner (include the name under which you were convicted) <u>Kevin J. Robinson</u>		Respondent (authorized person having custody of petitioner) v. <u>state of Maine</u>	
The Attorney General of the State of:			

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:
Penobscot Judicial Center
Bangor, ME 04401
78 Exchange street
(b) Criminal docket or case number (if you know): CR-2017-3402
2. (a) Date of the judgment of conviction (if you know): 4-19-2018
(b) Date of sentencing: MAY-11-2018
3. Length of sentence: 25 years
4. In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No
5. Identify all crimes of which you were convicted and sentenced in this case:
aggravated Trafficking - count 1
aggravated Trafficking - count 2
6. (a) What was your plea? (Check one)

<input checked="" type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: Maine Supreme Judicial Court

(b) Docket or case number (if you know):

(c) Result: Denied

(d) Date of result (if you know): March 28th, 2019

(e) Citation to the case (if you know):

(f) Grounds raised: 1) The Court prejudiced the jury by telling them the charge was aggravated trafficking in drugs. 2) The polling procedure used by the Court violated petitioner's constitutional right to a fair trial. 3) ineffective, ineffective of Council 4) The Court violated my Due process Right

(g) Did you seek further review by a higher state court?

☒ Yes ☒ No

If yes, answer the following:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Result:

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(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☒ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Penobscot Judicial Center(2) Docket or case number (if you know): CR-2019-1532

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: Post-Conviction Review

(5) Grounds raised: 1) Ineffective assistance of Counsel: 1) Failure by Counsel to disclose to Petitioner the meaning of "Bifurcated Trial"; Failure to address what stipulation to priors meant to Petitioner, (3) Violation of 14th Amendment Rights. by not filing for disclosure of all petitioner Discovery under M.R. Crim. P. 16 (c); resulting in Discovery violations under Brady rule.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☒ Yes☐ No(7) Result: Petition Denied

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(8) Date of result (if you know): 10/10/2021

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Maine Supreme Judicial Court

(2) Docket or case number (if you know): Pen-24-116

(3) Date of filing (if you know): Feb 18, 2024

(4) Nature of the proceeding: Notice of Appeal

(5) Grounds raised: (1) Lack of competence in petitioner and appointed counsel, (2) failure of counsel in explaining and representing petitioner, (3) failure to request evaluation for petitioner's learning disabilities, (4) failure of petitioner's counsel to effectively communicate plea deals and the basis for its importance.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: Denied

(8) Date of result (if you know): March 27, 2024

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: Supreme Judicial Court

(2) Docket or case number (if you know): Pen-21-402

(3) Date of filing (if you know):

(4) Nature of the proceeding: Certificate of Probable Cause

(5) Grounds raised: Ineffective Assistance of Counsel and revoking of probation.

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No(7) Result: Denied Certificate of Probable Cause(8) Date of result (if you know): April 14, 2022

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No(2) Second petition: ☒ Yes ☐ No(3) Third petition: ☒ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Ineffective Assistance of Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Trial Counsel failure in relating the meanings of "Bifurcated Trial" and failure to disclose to petitioner the meaning of "stipulation to priors" are.

(b) If you did not exhaust your state remedies on Ground One, explain why:

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(c) **Direct Appeal of Ground One:**(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No(2) If you did not raise this issue in your direct appeal, explain why: Petitioner cannotraise ineffective Assistance of Counsel in court
unless P.C.R. or Federal Habeas Corpus.(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction ReviewName and location of the court where the motion or petition was filed: penobscotJudicial Center 78 Exchange street Bangor ME, 04411Docket or case number (if you know): CR-2019-1532Date of the court's decision: 10/10/2021

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition? ☒ Yes ☐ No(4) Did you appeal from the denial of your motion or petition? ☒ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Maine Supreme Judicial CourtDocket or case number (if you know): PEN-24-116Date of the court's decision: MARCH 27, 2024Result (attach a copy of the court's opinion or order, if available): Denied

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

GROUND TWO: Ineffective Assistance of Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Trial Counsel failed to conduct a proper pre-trial investigation.

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: Petitioner cannot raise I.A.O.C. unless in P.C.R. or Federal Habeas Corpus. Raised in Appeal of P.C.R.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction Review

Name and location of the court where the motion or petition was filed: Penobscot

Judicial Center 78 Exchange St
Bangor, ME 04401

Docket or case number (if you know):

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Date of the court's decision:

March 27, 2024

Result (attach a copy of the court's opinion or order, if available):

Denied

(3) Did you receive a hearing on your motion or petition?

☒ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Supreme Judicial Court

Docket or case number (if you know):

PEN-24-116

Date of the court's decision:

April 14, 2024

Result (attach a copy of the court's opinion or order, if available):

Denied

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two :

GROUND THREE:

Ineffective of Counsel's Assistance during Appeal Phase & post-Conviction Review

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Appellate Counsel: Failed to address all issues regarding Courts failure to allow petitioner to use Counsel that was originally granted by the Court.

Post-Conviction Counsel: Failed to want to address above mentioned issue as needed. Failed to address trial Counsel's failure to object to Court's disclosure of petitioner's priors. Failure to address new laws

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(b) If you did not exhaust your state remedies on Ground Three, explain why: *Both Appellate and post-conviction lawyers did not raise this issue as requested by petitioner. Can't raise I.A.O.C on Direct Appeal.*

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: *Appellate Counsel failed to raise this in Direct Appeal, cannot raise I.A.O.C. on Direct Appeal.*

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

Couldn't raise in Direct Appeal because counsel's not wanting to. Couldn't raise in post conviction review because that counsel said he wouldn't amend that issue.

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

GROUND FOUR: disclosure
Trial Phase: Court's of Petitioner's prior(s) charge(s) & The Polling of the Jury by the Court

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Court disclosed (improperly) Petitioner's Prior(s) to the jury during the course of the Trial.
Court (improperly) polled jury.

- (b) If you did not exhaust your state remedies on Ground Four, explain why:

- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Maine

Type of motion or petition:

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Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?

☐ Yes☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

Post-Conviction Counsel failed to raise this issue under I. A. O.C. of my trial Counsel.

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☒ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

Matters having to do with I.A.O.C. of Trial, Appellate, and P.C.R. Counsel. Appellate and Trial errors was not mentioned in P.C.R. and Maine Supreme Court denied C.O.A. of P.C.R. hearing.

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

I.A.O.C.'s have not been presented to courts due to the failure to do so by P.C.R. Counsels
I.A.O.C.

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Can't Recall

(b) At arraignment and plea: Terrance M. Harrigan Esq.

(c) At trial: William G. Bart Esq.

(d) At sentencing: William G. Bart

(e) On appeal: Jeffrey C. Toothaker, Esq.

(f) In any post-conviction proceeding: MARY Kelleth Gray, Esq.

(g) On appeal from any ruling against you in a post-conviction proceeding:

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

I am within the 1 year timeline to file my current petition. When taking into account my Trial Judgement, Direct Appeal, Covid-19 delays and Post-Conviction Review filling and decisions, I have yet to exceed the year deadline to file this petition.

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However, I am not versed in law, have reading and writing difficulties, and I am currently incarcerated in a state Prison that has no Law Library or Legal Aide's. Therefore, I do not know if I have filed this Petition properly. Hopefully, Petitioner can be assigned Counsel to help formulate a proper and well-detailed filing.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

*Reverse, set Aside, Correct, and/or Grant Petitioner
an attorney and allow Petitioner to move forward with ~~petition~~
petition.*

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 09-23-2024 (month, date, year).

Executed (signed) on 09-23-2024 (date).

Kevin Robinson
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.